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1. Where the sole heir of a succession has sold a part of the real estate; and afterwards suit is instituted to recover the wife's *dot*, or *dower*, which is referred to arbitrators who decide that the whole of the land and real property of the succession, "*not heretofore disposed of*," be sold to satisfy the claim for dower, the portion first sold by the heir will (under the decision) be exempt from the wife's claim, although she had a tacit mortgage on all the estate for her dower.*Brent vs. Reeves et al.* 5

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44. Any evidence which establishes a right to have them reduced, although it does not come under the head of compensation or payment, is admissible.....*McCombs vs. Dunbar*, 517
45. Courts of justice will not require, after a great interval of time, the same exactness of proof, as in recent transactions.....*Walker vs. Fort*, 535
46. Parole evidence may be received of the probable revenue of the common property.....*Gosselin vs. Abat*, 549
47. Protests of captains of vessels are not good evidence, unless in the event of the death of the persons making them, nor can they be received to prove an authority in the master to sell the ship in case of risk of her loss or destruction.....*Peck et al. vs. Gale*, 321
48. A certificate of a sale made by a parish judge in his character of auctioneer is good evidence..... *ib.*

EXECUTION.

1. Under a forced alienation of property, the purchaser will acquire no title unless the formalities of the law be strictly complied with.
Delogny vs. Smith, 418
2. The return of the officer, that the property was sold after legal advertisements, is not conclusive..... *ib.*
3. The person whose property is sold under an execution, cannot be considered as a party to the act of sale..... *ib.*
4. The creditor cannot treat a conveyance as null, and proceed to sell the property. He must bring an action to set aside the conveyance, before he can levy his execution.....*Childress vs. Allen*, 477
5. The purchaser of property at a forced sale, is not subrogated to the rights of the judgment creditor..... *ib.*

EXCEPTIONS.

1. Where there are exceptions sufficient to authorise a dismissal of the suit, any thing said or done, in relation to others, cannot affect the rights of the parties.....*Rogers vs. Reynolds*, 461

FACTORS.

1. Factors must execute their trust with care, and diligence, and reasonable despatch.....*Jackson vs. Morse*, 555

2. They must be prompt in communicating, distinct in their accounts, and punctual in their dealings. *Jackson vs. Morse*, 555

FOREIGN LAWS.

1. The laws of other States must be proved by evidence, to enable the Supreme Court to take judicial notice of them. When they are not so, the case will be decided by our own laws. *Crosier vs. Hodge*, 357

FRAUD.

1. The charge of fraud against an insolvent debtor cannot be made unless within ten days after the appointment of syndics. *Blunt vs. Conn*, 217
2. Whether an action of nullity could in any shape be maintained to avoid the effects of a judgment of homologation when, subsequent thereto, proof could be adduced to show fraud in the insolvent. *Quere?* *ib.*
3. A contract fraudulent *ab initio* on the part of the buyer, is not translatable of property, and the owner may claim it as if it had never been sold. *Prall vs. Peel's Curator*, 275
4. Where property has been fraudulently alienated, if it be subsequently sold by the sheriff, for the vendor's debts, the purchaser at that sale, and who was not a creditor of the vendor, cannot attack the conveyance. *Childress vs. Allen*, 477
5. Where fraud is charged, the verdict of the jury will be affirmed, although the evidence upon which it was rendered, be not free from suspicion. *Richardson vs. Parry*, 529

HEIRS.

1. Whether in case there be heirs entitled to inherit jointly with an absentee, who is not known to have ceased to exist, they have or have not the right to the exclusive possession of the estate?—*Quere?* *Babin vs. Phillipon's Executors*, 374
2. When there are none such, the heirs of the absentee may be put in possession. *ib.*
3. A stranger, claiming without right to be heir, neither acquires the rights, nor incurs the responsibility of one. *Walker vs. Fort*, 535

INTEREST.

1. Interest does not run on the price, after suit has been instituted against the vendee for the premises. *Daquin vs. Coiron*, 404
2. The judgment cannot cumulate the interest, which had accrued at the time stipulated for payment, with the principal sum due, and decree interest on the aggregate amount thus formed. *Nerault vs. Dodd*, 431

3. The court cannot decree interest unless it be given by the award.

Janes vs. Richard, 486

INTERROGATORIES.

1. If a party is required to answer interrogatories, and state whether he had not contracted to sell the property claimed, to the defendant, and he answers in the negative, his answers cannot be disregarded; unless the facts disclosed in them, show there was such a contract as the defendant alleged.....*Bach vs. Hall*, 116

2. When the plaintiff is interrogated to declare whether certain slaves claimed by him, had not been sold by him to the defendant, and he denies it, his answers cannot be allowed to be disproved by witnesses: it would be establishing the sale by parole testimony, which is prohibited by the code... *ib.*

INSURANCE.

1. If a quantity of cotton in several warehouses be insured to a given amount, and the insured suffers a loss by the destruction of cotton in one of the warehouses to the amount insured, he is entitled to full indemnification.

Nicolet et al. vs. Insurance Company, 366

2. He is not compelled to reduce his claim in the proportion which the cotton destroyed, bears to the whole he had in the several warehouses..... *ib.*

3. An error in a policy of insurance, may be corrected by the memorandum left by the insured, and the answer thereon, of the officer of the company.....*Lippincott vs. Insurance Company*, 546

INTERVENOR.

1. An intervening party has no right to take advantage of the insufficiency of the pleadings or proceedings in attachment against a defendant. The nullities are relative only, and the defendant alone can urge them.

Emerson vs. Fox, 178

2. The owner of property, a partition of which is sued for in the Court of Probates, cannot intervene in order to obtain a decree of that court, recognising his title.....*Curtis vs. Curtis*, 513

INJUNCTION.

1. In suing for damages on an injunction bond, it is sufficient to allege damages by the wrongful suing out the injunction with the bond annexed; and to show that the injunction was either dissolved or abandoned in order to recover the amount of damages the party may prove he has sustained.

Penniman vs. Richardson, 101

2. The gist of the action is the wrongful suing out the injunction; and not the court from whence the writ enjoined came, which is merely incidental to it. For no matter from what court, the injury was the same..... *ib.*

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3. When there is no reasonable ground for an appeal, it will be considered as frivolous, and the judgment below affirmed with ten per centum damages and costs.....	<i>Penniman vs. Richardson</i> , 101
4. Where an order of seizure and sale is stayed by injunction, the party obtaining it, is confined, in the appellate court, to the grounds on which the injunction was obtained in the court below.....	<i>Landry vs. L'Eglise</i> , 219
5. A prayer that the injunction may be dissolved with twenty per centum damages, does not authorise judgment for these damages and fifty dollars more.....	<i>ib.</i>
6. Under the act of 1831, the court in dissolving an injunction, may give damages to the amount of twenty per centum, though they have not been prayed for.....	<i>ib.</i>
7. The dissolution of an injunction is <i>prima facie</i> evidence, that damages have been sustained by the plaintiff in execution.....	<i>Florance vs. Nixon</i> , 269
8. A Court of Probates cannot take jurisdiction of a case in which it is asked, that the defendant be decreed to make a conveyance of a tract of land.....	<i>Rhodes vs. Rhodes</i> , 308

INSOLVENT.

1. Where a debtor presents his schedule and prays for a respite, which is refused by his creditors, and <i>ipso facto</i> a cession of his property ensues, the law does not require a homologation of this refusal, but orders the proceedings to continue as if the cession had taken place in the first instance. <i>Arcenaux vs. his Creditors</i> , 37	37
2. Creditors who failed to attend the <i>concurso</i> or meeting of creditors, cannot plead ignorance of the law, or want of notice, in order to set aside the proceedings of those who attended and voted for syndics and the terms of the sale of the ceded property.....	<i>ib.</i>
3. The sale of a surety debt alone is null and void, even if the principal debtor is insolvent. For insolvency does not destroy the principal obligation; if it did, it would follow that the surety was discharged. <i>Andrus vs. Chretien</i> , 46	46
4. Privileged creditors who have been paid the amount of their debts cannot attack the regularity of the sale of the insolvent's estate until they have returned the money. A demand of the syndics will not authorise such an action.....	<i>Nolte et al. vs. their Creditors</i> , 264
5. A syndic whose functions have not expired, may demand that the insolvent, who has come to better fortune should surrender his newly acquired property; and in such a case the petition need not be sworn to. But the judgment must not be absolute; it must be to account, and an allowance must be made for the relief of the insolvent and his family. <i>Morgan vs. Dalton</i> , 333	333

6. When the creditors are represented as in a *concurso*, the right of proceeding against an insolvent, belongs exclusively to the syndics.
Rogers vs. Reynolds, 461
7. A creditor of the insolvent residing out of the parish where the proceedings take place, but within the state, is entitled to notice by letter from the notary.....*Moore vs. Jacobs*, 524
8. The responsibility of the syndic, for debts due the insolvent, which have come into his hands, depends upon the exercise of due diligence,
Mellicur vs. his Creditors, 532
9. Syndics are not bound *in solidum* for the acts of each other..... *ib.*
10. The syndic when called on is bound to show the date when moneys were received..... *ib.*
11. The estate of the insolvent is not responsible for a charge arising from the negligence of the syndic..... *ib.*
12. The syndic has no right to interest on his debt, after funds come into his hands sufficient to discharge it..... *ib.*
13. A creditor is entitled to the amount for which he is placed on the *bilan*, unless it be shown he is placed there through error..... *ib.*
14. In contests between creditors of an insolvent estate, where the genuineness and legality of claims are controverted, the claimant is bound to establish his credit by strict proof.....*Guerin vs. his Creditors*, 558

INDORSEMENT.

1. A negotiable paper indorsed in blank, transfers the right to it, in full property, to the holder, and he can maintain an action on it, without filling up the blank.....*Nerault vs. Dodd*, 430

JURIES.

1. The act of 1830 repealing that of 1829 relative to juries in the parishes of Orleans and Jefferson, revives those in force before the repealed act.
Prall vs. Peel's Curator, 274
2. The act of 1827, which requires the sheriff to summon not less than thirty-six jurors, does not inhibit him from summoning seventy-two..... *ib.*

JOINT OWNER.

1. A joint owner who neglects or refuses to answer a letter, by which his co-owner announces to him, he had purchased a stranded vessel formerly belonging to them, on joint account, cannot afterwards claim a portion of the vessel.....*Peck et al. vs. Gale*, 321

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2. One joint proprietor may *sell* his share to another co-proprietor, and incur the responsibility of a *vendor*.....*Daquin vs. Coiron*, 404
3. The joint owner of a lot, may enforce a mortgage, which he holds on the undivided portion of his co-proprietor, notwithstanding the pendency of a suit for partition.....*Gleises vs. Maignan*, 530

JUDGMENT.

1. A confession of judgment on a condition, has no effect until the condition be performed.....*McDonough vs. Zacharie*, 313

JURISDICTION.

1. Where one of several heirs appoints another of the heirs as agent to sell and dispose of the joint property, and pay over the portion coming to the heir who constitutes him her agent, she can sue him in the District Court and compel him to render an account of his agency.
Bronaugh vs. Bowles, 120
2. The defendant residing in one parish, the District Court of another jurisdiction cannot take cognizance of a suit against him. Jurisdiction is denied to all courts but those of the defendant's domicile; unless expressly given by the code.....*Thomas vs. Dixon*, 125
3. Where there is no property of an estate on which the Court of Probates can act, a suit to set aside a conveyance made to the ancestor by one of the heirs, must be instituted in the courts of ordinary jurisdiction.
Benoit vs. Benoit, 223
4. Courts of Probate have exclusive jurisdiction in all cases of passive debts of a succession, administered by a curator, executor, &c.
Prall vs. Peel's Curator, 274
5. The Criminal Court is without jurisdiction in a suit, on a recognition taken by it.....*Peirce vs. Morgan*, 342
6. The District Court has no jurisdiction of a suit against minors under the age of puberty, who are not represented in the state, although a curator *ad hoc* be appointed to defend them.....*Roland vs. Stephens*, 483
7. The District Court cannot entertain jurisdiction of a suit to annul the judgment of a Court of Probates, appointing an administrator to an estate.
McCombs vs. Dunbar, 517

LANDS.

1. Lands held for a series of years in virtue of a Spanish grant and survey, and which have been confirmed by the United States government, will not be disturbed by adverse claims, evidenced by titles of similar perfections, but later in date; and especially when they do not call for the *locus in quo*, but only for land near and adjoining it.
Palfrey vs. Martin et al. 40

2. Claimants who have possessed and made improvements on the disputed premises, will be allowed to claim the benefit of them, although they have been enjoined not to remove them, or had them allowed in the suit evicting them.....*Palfrey vs. Martin*, 40

3. A settler by virtue of a pre-emption right who enters the land, and makes a payment according to law, cannot be ousted by a sale of the same tract to a subsequent purchaser, unless the settler failed to make the subsequent payment: The forfeiture that might have arisen from that circumstance is waived by the law of May 4th, 1826.....*Godeau vs. Phillips*, 59

4. In the sale of a tract of land containing a specific quantity of acres for a certain price or sum, and within certain described limits and boundaries, if the quantity of acres it actually contains fall short of that sold, the vendee cannot compel the vendor to make up the deficiency.
Johnston vs. Quarles, 90

5. There can be no increase or diminution in the sum paid, on account of deficiency or disagreement in the measure or quantity sold, when the object is designated by the adjoining tenements and sold from boundary to boundary..... *ib.*

6. So if a tract of land is sold to contain three hundred and twenty arpents for five thousand dollars, and described as bounded by a bayou in front and tenements above and below; and on measurement it is found to contain only two hundred and seventy-five arpents, the purchaser cannot recover the deficiency..... *ib.*

7. In the confirmation of land titles by the United States Land Commissioners, if the sale to the grantee and claimant was not fully established, the confirmation enured to the benefit of him who held the original or inchoate titles.....*Sackett vs. Hooper*, 104

8. The acts of Congress granting donations of land on settlement rights, expressly gives the preference in case of conflict to that which is based on a written evidence of claim derived from the Spanish government.

Swift vs. Williams, 234

LESSOR.

1. If by a clause in the lease, the lessors are authorised to resume the premises, if the lessee neglect to keep a road in good order; the state of the road may be proven by witnesses.....*Navigation Company vs. Allard*, 209

MINORS, TUTORS AND CURATORS.

1. Minors *et al.* claiming redress against their tutors *et al.* are bound to pursue them in the alternative, demanding an account or payment of such sums as they may suppose to be due. In such a case the remedy by ordinary attachment is not legal, and when a tutor or curator, absent from the state, is sought to be made liable for his administration of an estate, the

- pursuit can be rendered legal in no other way than by the interposition of a curator *ad hoc* *Collins vs. Batterson*, 242
2. The curator of the succession of a deceased partner is to cause an inventory and appraisement to be made of the portion of the deceased in the partnership..... *Prall vs. Peet's Curator*, 274
3. The curator of a vacant succession is the proper representative of the heirs, and a judgment in his capacity of curator, is as valid and efficacious against the succession, as if rendered against the heirs..... *ib.*
4. When goods on which a party has a privilege are sequestered and sold by consent, he has a privilege on the proceeds..... 274
5. When made a party to a suit pending before the partner's death, against the partners, the curator cannot require the transfer of the suit to the Court of Probates..... *ib.*
6. An emancipated minor has a right to receive the balance of his estate in money or notes in the hands of his tutor, without the intervention of a family meeting..... *Heirs of Withers vs. his Executors*, 363
7. The law requiring opposition to be made within ten days to the appointment of curators, is limited to cases, wherein regular notice has been given of the application..... *Tilden vs. Kendrick*, 471
8. Persons living out of the parish where the succession is opened, but having a domicile in the state, are competent to be appointed curators..... *ib.*
9. Whether, when minors are removed permanently without the state, with their tutor by nature, and the succession or any part of it, to which they may be entitled, remains, it should be administered as a vacant succession. *Quere?*..... *Roland vs. Stephens*, 483
10. A minor, emancipated by marriage, may dispose of and alienate his moveable property, without the consent of a family meeting, or the authority of the judge..... *Grigsby vs. Louisiana Bank*, 491
11. The minor, emancipated by marriage, has a right to demand of her curatrix an account of her administration..... *Gaienne et al. vs. Hepp*, 515
12. A minor is not affected by a sale which his co-heir makes, nor in such a case is his claim barred by prescription..... *Walker vs. Fort*, 535

MOURNING DRESSES.

1. The widow's claim for sustenance, habitation and mourning dresses on the estate of her deceased husband, is only allowed in cases where the wife brought a dowry, and when she relinquishes the interest arising on it the first year..... *Hagan vs. Sompeyrac*, 154

2. The claim of the wife upon the estate of the husband for habitation, mourning dresses, &c. is limited to cases, which show a settlement and constitution of dowry.....*Pool vs. Pool*, 465

MORTGAGE.

1. The third possessor may plead that the act of mortgage does not authorise the executory process.....*McDonough vs. Zacharie*, 313
2. The mortgagor cannot complain that *only* part of the premises were seized, though he might object that this part was more than sufficient to satisfy the debt.*Gaiennie vs. Questi*, 433

MOTHER TONGUE.

1. The objection, that the proceedings were not in the French and English languages, will not avail, unless there be evidence on the record to show, that French was the mother tongue of the party.....*Lafon vs. Smith*, 473

NOTICE.

1. When the report of experts or auditors is made out it is necessary that it be filed, and the motion to homologate it be made in open court, before notice to the adverse party, to show cause, &c. and ten days allowed to make the opposition, after the motion to homologate.
Thomasson et al. vs. Waters, 71
2. In cases where the law requires notice to be given, the terms of it must be complied with.....*Stone vs. Clifford*, 349

NEW TRIAL.

1. A new trial will not be granted on the ground of newly discovered evidence, if it appears from the affidavit of the party applying, that that evidence consists in the testimony of a person whom he had summoned as a witness and dismissed without examination.....*Wilbor vs. McGillicuddy*, 382

NONSUIT.

1. Judgment of non-suit irregularly obtained, will be set aside.
Poydras vs. Tusson, 443

OPPOSITION.

1. The right of third parties to oppose an execution, is limited to cases, where the person making the opposition is the owner of the thing, or has a privilege on it.....*Skillman vs. Purnell*, 494

OVERSEER.

1. If an overseer be employed for one year, but discharged without cause before its expiration, he may at once sue for his wages. But if he be reconciled with his employer and resumes the management of the plantation, he cannot sue until the expiration of the year..... *Chevalier vs. Borie*, 299

PARTNERS.

1. Where two partners in trade, agree on a partition of their partnership property, and to wind up their business, and one of them sells to the other all his interest in the concern, which consists of debts due to the partnership, &c., he guarantees to the vendee, not only the solvency of the debtors, but is bound in warranty to make good the loss occasioned by their insolvency..... *Morgan vs. Davenport*, 184
2. Where the obligation is made to a commercial firm, the parties composing it must join in the action..... *Crozier vs. Hodge*, 357
3. A surviving partner is excluded from the curatorship of his deceased partner..... *Tilden vs. Kendrick*, 471
4. A commercial partnership is confined to personal property, and if real estate be acquired by the firm, it will be *joint* and not partnership property.
 Skillman vs. Purnell, 494
5. Partnership effects are first responsible for partnership debts..... *ib.*

PARTITION.

1. A map or plat, on which the division lines of several co-proprietors of a tract of land are traced out and laid down, forms a complete partition of the joint property, as if each line had been actually run and marked by the surveyor..... *Compton vs. Mathews*, 128
2. Partitions may be made either really or intellectually; and an intellectual division may not only be made of rights and actions, but also of corporeal objects..... *ib.*
3. Co-heirs after partition, remain warrantors to one another for any trouble and eviction, which proceeds from causes anterior to the partition; and guarantee, that the debtors of the succession, are solvent the time the debts become due. The same rules and obligations apply to partners in trade..... *Morgan vs. Davenport*, 184
4. And where in any partition, sale, exchange or transaction, between co-heirs or partners in trade, which has for its object, the division of the community or partnership property, if the vendee, or any of them suffers lesion of more than one-fourth of the true value of the thing; he can cause the rescission of the partition, transaction, &c.; and compel the vendors or other co-heirs or partners to make good the loss..... *ib.*

PARAPHERNAL PROPERTY.

1. A slave which is paraphernal property belonging to the wife, cannot be sold for the state and parish taxes assessed against the husband, although the slave in question be included in the assessment.

Harrison et al. vs. Faulk et al. 68

2. The circumstance of a separation of property between the husband and wife, in which the latter obtained a judgment against her husband for a specific sum in money, does not alter the situation of the paraphernal or extra dotal property of the wife which remained to her in kind..... *ib.*

3. The purchaser of the wife's paraphernal property, cannot call in question her title to that which was given in exchange for it..*Newsom vs. Adams,* 231

4. Where paraphernal property of the wife is given in exchange, that received in place of it, partakes of the same character, and cannot be alienated by the husband, without her consent..... *ib.*

POLICE JURY.

1. An authority conferred on an inspector of cattle by the police jury of St. Martin, to inspect "all droves intended to be taken out of the parish of St. Martin, to be sold on the Mississippi," does not authorise the inspector to demand fees of drovers passing through St. Martin from other parishes.

Fagot vs. Graderigo, 13

2. The police jury have power only to pass laws and ordinances, and make regulations relative to the property which is owned and limited to their respective parishes, or brought there for deposit or sale..... *ib.*

3. The circumstance of property passing through their jurisdictional limits, does not authorise them to stop it for inspection or any other purpose. *ib.*

4. The right of the public authority to establish and regulate ferries has been exercised both by the ancient and modern laws of this state. And the police juries can sell the privilege to keep one to the highest bidder, and enforce payment.....*Parish Treasurer vs. Russell et al.* 93

5. The legislature has conferred authority on the police jury to establish ferries and sell the privilege of keeping them, to the highest bidder, even at places where private ferries have been kept..... *ib.*

POWER OF ATTORNEY.

1. The old Civil Code authorised a power of attorney to be given by the wife to the husband to receive her paraphernal property, either verbally or in writing.....*Borel vs. Borel et al.* 30

PLEDGE.

1. Property in expectancy may be the object of a contract of sale, but not of pledge, as the latter requires delivery.....*Hagan vs. Sompeyree*, 154
2. There cannot be a pledge without a notarial act, or *sous seing privé*, duly recorded.....*Shaw's Syndic vs. Newton*, 528

PRESCRIPTION.

1. An action to set aside a contract between a debtor and his creditor, made when the former was in insolvent circumstances to the knowledge of the creditor, and by which a preference is given to one creditor over another, must be commenced within a year after the making such contract.
Petit vs. his Creditors, 26
2. A creditor may institute suit within one year after having obtained judgment against his debtor to set aside a fraudulent sale or disposition of his property, to the prejudice of his creditors; but such suit must have reference to fraudulent acts of a debtor, which indicate something more than a bare preference to one of his creditors..... *ib.*
3. The plea of prescription will be considered as contradicted, when the same party alleges they are proprietors in common with the adverse party.
Palfrey vs. Martin et al. 40
4. Prescription does not begin to run until the creditor can sue.
Landry vs. L'Eglise, 219
5. If there be an agreement for the construction of a sugar mill, the period of prescription of the redhibitory action does not run from its date.
Lobdell vs. Parker, 328
6. The mortgagee creditor, may oppose the plea of prescription, though the estate be not insolvent, and *that* whether there is an estate to be acquired, or a debt to be extinguished.....*Durnford vs. Clark*, 199
7. The authority to acknowledge a debt must be special; attorneys at law, as such, have not the power..... *ib.*
8. Prescription runs against a vacant estate, though no curator has been appointed..... *ib.*
9. Prescription plead by one creditor does not enure to the benefit of another creditor..... *ib.*
10. Where the estate is solvent, the chirographary creditor has no right to plead prescription against another creditor's demand..... *ib.*
11. A promise to pay a debt can be considered in no other light, but an acknowledgment of its existence.....*Carraby vs. Navarre*, 262

12. One cannot renounce the right of pleading prescription, which may be thereafter acquired, but the debtor may renew his obligation, so as to make the time run from his acknowledgment, and not from the date of the engagement..... *Carraby vs. Navarre*, 262

13. If it appear from the allegations in the petition that the plaintiff's claim is based upon the illegal acts of the defendant, it constitutes an offence or quasi offence, and the action is barred by the prescription of one year..... *Wood vs. Foster*, 338

14. Prescription may be pleaded in the Supreme Court, at any time before final judgment..... *Percy et al. vs. Millaudon et al.* 568

PRIVILEGE.

1. Where creditors accept a conveyance of the property of their debtor to secure the payment of a debt due to them, by public act à rente à remert, and reconvey it, for a sum sufficient to cover their debt, and allow a credit; they thereby become privileged and mortgaged creditors of the insolvent, to the amount of such sale..... *Petit vs. his Creditors*, 26

2. Creditors who have made advances to a planter on the faith of a letter, pledging his crop then growing, cannot claim a privilege on the proceeds of the crop sold by the syndic of the planter and debtor.
Hagan vs. Sompeyrac, 154

3. If the advance made by the creditor has been employed to take up a note of the debtor in bank and secured by a mortgage, he might have insisted on being subrogated to the rights of the bank against the debtor, and in doing so, would have had a mortgage on the debtor's plantation, but no privilege on the crop growing..... *ib.*

4. There was no antichresis or pledge in this case, but only a promise of payment out of the proceeds of the crop, which the creditor was not authorised to enter upon the land and reap the fruits until he was paid..... *ib.*

5. The state has no privilege for taxes due it by any of its delinquent debtors..... *ib.*

PROMISSORY NOTE.

1. The negotiability of a promissory note made in that form, is not restrained or in any manner altered, by the circumstance of its being paraphrased *ne varietur* by a notary public..... *Abut vs. Gormley et al.* 238

2. The *bona fide* endorsee of a promissory note is not responsible for any equity existing between the maker and payee; but where the consideration of the note was a transaction between the maker and the party to whom it was endorsed; and the note was made payable to a third person

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to obtain his security, the equity may be gone into an action between the endorsee and maker.....	<i>Lanclos vs. Robertson</i> , 259
3. Where three individuals are bound <i>in solido</i> for the whole amount of a note, if the holder accept a less sum from two of the drawers, who are released from responsibility, the endorser is discharged.....	<i>Abat vs. Holmes</i> , 351
4. The holder of a note has no right to change the obligation of the makers, without the consent of the endorser.....	<i>ib</i>
5. When the obligation is joint, all the obligors must be made parties to the suit.	<i>Barrow vs. Norwood</i> , 437
6. A bill payable to several, or a joint note, produces a joint not a several obligation.....	<i>ib</i> .
7. On a joint note, the parties are only responsible for their <i>virile</i> share.	<i>ib</i> .

PRACTICE.

1. At the time the Civil Code was adopted, laws might be passed in both languages; and, in construing this work, effect will, if possible, be given to both the English and the French texts.....	<i>Borel vs. Borel et al.</i> , 30
2. But if the law, as written in each language, presents different ideas, a compliance with either is sufficient.....	<i>ib</i> .
3. When the evidence leaves the facts of a cause in doubt, this court will not reverse the judgment of the judge <i>a quo</i> , who knew the parties and the witnesses in the case.....	<i>Solibellas vs. Reeves's Curator</i> , 55
4. The verdict of the jury will be considered as responding to the issues made by the pleadings, when there is any doubt as to its application, unless it clearly expresses the contrary.....	<i>Harrison et al. vs. Faulk et al.</i> , 68
5. A suit is properly brought in the name of the parish treasurer, on a note payable to him, for the sale of a public ferry, when the ordinance of the police jury requires bonds taken for this object, to be given in his name. <i>Parish Treasurer vs. Russell</i> , 93	93
6. In a suit on a note payable in cotton, it is sufficient to set out the note and the breach of the contract arising on it, to enable the plaintiff to recover the value of the cotton as damages.....	<i>Hunter vs. Spurlock</i> , 97
7. It is not required that an answer containing a demand in re-convention should be served on the plaintiff. The latter is in court, and is bound to take notice of the issues the law raises without an answer.....	<i>ib</i> .
8. According to the 312th article of the Code of Practice, three judicial days must elapse and intervene between taking judgment by default and making it final, or the judgment will be reversed and set aside. <i>Hall vs. Mulholland</i> , 113	113

9. If answers to interrogatories are presented to be filed after the trial has commenced, the adverse party may have time allowed to except or object to them, by a continuance or postponement of the cause; but he cannot object to filing them. *Bronaugh vs. Bowles*, 120
10. A joint heir or joint proprietor or co-parcener can sue and maintain a petitory action against a mere possessor without title for the whole undivided succession or property..... *Compton vs. Mathews*, 128
11. Plaintiffs in a petitory action must recover by the strength of their own title, and not by the weakness of that of their adversary.
Phillips vs. Flint, 146
12. An order dismissing a rule, which would in effect have operated as a final judgment against the party, requires the signature of the judge.
Collerton vs. McLeary, 429
13. A suit which is terminated, is as if it had never been instituted.
Thompson vs. Dupuy, 432
14. The assignee of an act of sale in the nature of a *vente à réméré* can institute a possessory action against the vendor and recover possession of the property sold, and hold it subject to the conditions of the *vente à réméré*, as made to the original purchaser..... *Bullard vs. Phillips*, 151
15. Trying a cause, on a day different from that set for trial, is not *per se*, such an irregularity as calls for a reversal of the judgment. It is only where it furnishes grounds to believe, that the parties were not heard, that such a consequence follows. *Janes vs. Richard*, 486
16. In construing instruments, the intention of the parties, when it can be ascertained, always exercises a powerful influence in the interpretation of the language used, and to ascertain that intention, all parts of the writing must be looked into, and the whole considered..... *Walker vs. Fort*, 535

PLEADINGS.

1. An allegation that work was defectively executed, necessarily carries with it the allegation that damages have been sustained.
Thornton vs. Linton, 253
2. If work is to be paid for by instalments before it is finished, pleading payment does not admit the work was executed according to contract..... *ib.*
3. In an action for illegally suing out an injunction, an allegation that the writ was dissolved, coupled with an averment, that the defendant had been enabled to move his property out of the reach of process, sufficiently charged, that the writ was wrongfully sued out, and that damage was sustained by issuing it..... *Florance vs. Nixon*, 289

4. It is sufficient if the plaintiff state his case clearly in the petition, if he does, technical objections cannot affect it..... *Florance vs. Nixon*, 289

5. A plea admitting the execution of the note sued on, but denying it was legally transferred to the plaintiff so as to authorise him to recover, is a general defence, not a declinatory or dilatory plea..... *Questi vs. Griffe*, 306

6. All matters of defence set up in the answer, are open to every objection of law and fact, as if these objections were specially pleaded.

Daquin vs. Coiron, 387

7. Under a special allegation of one kind of title, another cannot be proved..... *Delogny vs. Smith*, 418

8. Plaintiffs must be understood to claim in that capacity, in which they have a right to claim, on the facts stated..... *Walker vs. Fort*, 535

PROMULGATION.

1. Courts are bound to take notice of the date laws are promulgated, although no evidence be adduced of the fact of promulgation. They are also bound to notice public laws, whether brought under their attention or not.

L' Eglise vs. Brenton, 435

PROCEEDINGS IN REM.

1. Proceedings *in rem*, are confined to cases in which the thing is abandoned, and the owner unknown or absent..... *Gazzam vs. Wright*, 449

RES JUDICATA.

1. The decision in favor of the validity of a will, in a suit between the heir and executor, does not form *res judicata* as to the rights of legatees under the will. Parties must be heard before they are condemned, and the legatees were not represented by the executor who defended the will.

Valsain vs. Cloutier, 170

RECONVENTION.

1. Whether a plaintiff can be re-convened for a trespass committed by his vendor.—*Quere?*..... *Richardson vs. Perillat*, 208

2. Where the plaintiff takes a non-suit, the defendant's claim in re-convention will be disregarded, if he be left in the situation he was before the inception of the suit..... *M'Donough vs. Hart et al.*, 457

SALE.

1. A verbal sale, accompanied by delivery of real or immoveable property, and of immediate and continued possession of the vendee, was valid under the laws of Spain, and before the adoption of the Civil Code, especially of inchoate titles..... *Sackett vs. Hooper*, 104

2. An undivided portion or share of a co-heir of a succession cannot be seized and sold under execution. But such sale involves a relative nullity, which can only be taken advantage of by a person having a just title at the time, in an action of rescission.....*Phillips vs. Flint*, 146

3. In the sale of a slave in a state where the property passes by verbal sale and delivery, if the vendee suffers the vendor to retain possession, and he sells and delivers the things sold, to a second vendee, the latter will hold it in preference to the first.....*Madry vs. Young*, 160

4. So a slave thus sold, being accompanied with delivery and payment of the price, transfers all the vendor's right and interest, and needs no written title..... *ib.*

5. A contract of sale is perfect between the parties by their agreement ; but it is necessary there should be a tradition, or delivery of the property, to vest it in the purchaser.....*Emerson vs. Fox*, 178

6. The law considers the tradition, or delivery of immoveables as always accompanying the public act, which transfers the property : But if this property is attached by a creditor, it forms a legal obstacle to the delivery : The law does not consider that as done, which cannot be done..... *ib.*

7. So in a sale from one partner to another, of property, made *commun dividendo*, the vendee is not presumed to take the property at his risk, unless he expressly assume it, and if he suffers lesion of one-fourth, he has his action of rescission.....*Morgan vs. Davenport*, 185

8. The curator of minors owes them interest on all sums due by him to the estate, from the day of his appointment, if they were due. If not due, only from the day of payment.....*Fulton et al. vs. Curtis et al.*, 192

9. The curator owes interest for all sums from the time they came into his hands, unless he shows he put them out at interest *ib.*

10. There is no validity in an auction sale of real property, unless the assent of the owner be given *in writing*, or otherwise admitted.

Pew vs. Livaudais, 459

11. The validity of a sale depends, not on a price being expressed with certainty in the act, but that a price certain, should be agreed on by the parties.....*Walker vs. Fort*, 535

SHERIFF.

1. A sheriff who sells property, under execution, on twelve months' credit and omits to include a sufficient sum, in the twelve months' bond, to satisfy the debt, interest and costs, when the amount of the property sold was sufficient, makes himself liable to the debtor or defendant in execution for the deficiency.....*Dugat vs. Villejoin et al.*, 23

2. If the property sold be insufficient to satisfy the oldest mortgage, the sheriff must cancel posterior ones.....*Casanova vs. Aregno*, 211

3. The ministerial officer will be protected by a writ issuing from a court of competent jurisdiction, although the issuing of the writ be erroneous.
Went vs. Morgan, 311

4. There is no law which requires, or would authorise, the sheriff to wait three days for the bidder to find security.....*Lafon vs. Smith*, 473

5. A return by the sheriff, is *prima facie* evidence between the parties to a suit..... *ib.*

SEIZURE AND SALE.

1. Although a special mortgage be renounced, yet the vendor may exercise his privilege by the executory process, when it appears by evidence, that he was to retain his general lien.....*Howard vs. Thomas*, 109

2. When a deed of sale recites that certain notes or drafts have been given, and when paid, are to be in discharge or payment of the price of the object sold; in case of non-payment, the vendor can obtain his order of seizure and sale on the deed and vendor's privilege, by showing that the notes or drafts remain unpaid..... *ib.*

3. If in the act of sale it is stipulated, that the vendor shall perform certain acts, and that on his failure, the vendee may withhold or suspend the payment of the price, no order of seizure can be obtained, until the stipulation be complied with.....*McDonough vs. Zacharie*, 313

4. The 642d and 746th article of the Code of Practice, are not in opposition to each other, but afford a double remedy; that is, the plaintiff may either proceed by the executory process, or cause the *fi. fa.* to be directed to the parish, where the property of the defendant is situated.
Lafon vs. Smith, 473

SLANDER.

1. Whether it is necessary to prove malice, or show actual damage sustained from the words spoken in an action of slander.—*Quere?*
Cauchoux vs. Dupuy, 206

2. In an action of slander, malice need not be expressly proved, it may be implied..... *ib.*

SOLIDARITY.

1. Where a suit is against persons bound *in solido*, according to the provisions of law which define the obligations of commercial partners, the judgment carries with it solidarity, even although it be not expressed.
Prall vs. Peet's Curator, 275

STATU LIBER.

1. Where the parent of a slave child declares in a public act, that she gave her child its freedom from the moment of her death, the child is made a *statu liber* until the happening of the event upon which it becomes free.

Valsain vs. Cloutier, 170

2. By the laws of Spain, and while they were in force it was the law here that a legacy or donation made to a slave enured to the benefit of the master in the same manner as if the gift was directly made to him..... *ib.*

SURETY.

1. The obligation of a surety is an accessory to the principal obligation, and must follow it; so that the former cannot be sold without the latter.

Andrus vs. Chretien 48

2. The person who receives a debt as collateral security, is not otherwise responsible for it, except inasmuch as he has failed in discharging the duties of agent in making the collection..... *Carraby vs. Navarre*, 262

SLAVES.

1. The acts of the legislature of 1807 and 1809, in relation to runaway slaves are penal, and have relation to public offences.

Roquet vs. Richardson, 452

2. Whether the owner of a slave, which may have been concealed, or hired without license, can pursue the person offending in a civil action, and on proof of the offence recover the penalty prescribed by law. *Quere?.... ib.*

3. A person who holds possession of a slave without right or title, although his motives be not criminal, is liable for expenses, to which the owner is put to recover the slave..... *ib.*

SUMMARY TRIAL.

1. The only difference between the summary and ordinary trial, is, that the former need not wait its regular term on the docket, but that any, and an early day may be selected, and that a jury is not required.

Love vs. Banks, 480

2. The provisions of the Code of Practice, with regard to summary trials, were intended solely for the courts of New-Orleans..... *ib.*

SUCCESSION.

1. A settlement of the accounts of an executor, is no bar to an action against him for malfeasance in his administration..... *Young vs. Chaney*, 462



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2. Although the debts of the succession be increased after the death of the testator, the executor is not responsible, unless it be shown that the increase was owing to his misconduct, or improper application of the funds.
Young vs. Chaney, 462
3. Executors can only charge two and a half per centum on the value of the succession, as estimated by inventory. Any claim for care and trouble exceeding that must be established by testimony. *ib.*

TABLEAU.

1. If on an opposition to the homologation of a tableau a creditor has a special judgment, altering in part the situation or amount of his claim, and another complains of this alteration and appeals, the appeal must be taken from the special judgment complained of, and not from the general judgment of homologation. *Fulton et al. vs. Curtis*, 192
2. The endorser who has paid the note, is entitled on the tableau, to the place his endorsee would have occupied. *Suares vs. his Creditors*, 341

TAX.

1. The corporation of New-Orleans is deprived of the power to lay taxes on property either real or personal, owned and held out of the limits of the incorporated part of the city and faubourgs, although within the general limits as defined by the act of incorporation of 1805.
Lefferranderie vs. Mayor, 246
2. When the corporation sells the right to receive a tax which has been illegally imposed, and cannot be collected, it is responsible in damages. *ib.*
3. The state is entitled to the tax on foreign legacies which became due before the repeal of the act establishing it, notwithstanding that repeal.
Arnaud's Heirs vs. Executor, 336
4. The act of the legislature, which requires that property seized for taxes, be sold after three months advertisement, means the three months immediately preceding the sale. *Delogny vs. Smith*, 418
5. The state is entitled to the tax on successions accruing to foreigners, which became due before the repeal of the act establishing it, notwithstanding that repeal. *Quessart's Heirs vs. Canonge*, 560

THIRD PARTY.

1. A third party may avail himself of the nullity of a judgment when it forms the only legal basis of the action against him. *Collins vs. Batterson*, 242

USURY.

1. A contract by which ten per centum per annum, is to be paid for the loan of money, and two and a half per centum for advancing it, is usurious.
Daquin vs. Coiron, 387
2. And nothing but the principal can be recovered..... *ib.*
3. An original agreement to pay six per centum, may be enlarged to ten. *ib.*
4. An original agreement to pay interest at six per centum is not avoided by the parties subsequently entering into an usurious contract, in relation to further forbearance after the debt becomes due..... *ib.* 404

VIA EXECUTIVA.

1. The order for a writ of seizure and sale, is the judgment in the *via executiva*..... *McDonough vs. Zacharie*, 313

VENDOR.

1. The vendor of a slave who takes a draft on a third person, who accepts and pays it, cannot at the request of the latter, make him a title to the slave, when he is only required to deliver to him the slave as the agent of the vendee.
Flower et al. vs. Tuliaferro, 88
2. If the vendor sells his slave, receives a draft from the vendee in payment, which is paid by the acceptors at maturity, he is bound to make a title to the vendee; and his making title to third persons who happen to pay the draft, has no effect against the vendee, for they can receive no greater right than the vendor has, and which he has sold to his original vendee,..... *ib.*
3. An agreement to consign crops to the vendor for sale, is not cancelled by a suit for the premises, its obligations continue so long as the vendee remains in possession and makes crops,..... *Daquin vs. Coiron*, 387
4. If the thing sold be impaired in value through the neglect of the buyer, the seller is bound to the restitution of the full price—*aliter*, where the purchaser has derived profit from the waste committed by him..... *ib.*
5. Ordinary repairs, necessary to the enjoyment of the object sold, cannot be classed as improvements..... *ib.*
6. By the old Civil Code, the vendee could not resist payment of the price unless he was disturbed by a suit..... *Thompson vs. Dupuy*, 432
7. If a suit by which the vendee is disturbed, be dismissed, he cannot resist the vendors claim for payment of the price..... *ib.*

WARRANTY OF TITLE.

1. The surety of the vendor of a slave who warrants only the title, is not liable for expenses to which the vendee is put in consequence of the slave being affected with the redhibitory vice of running away.

Cowand vs. Reynolds, 378

2. But the vendor and surety are equally responsible on their warranty of title, for the damages incurred in case of eviction..... *ib.*

3. The warrantor performs his warranty, if he causes the disturbance to cease by showing want of title in the disturber...*McDonough vs. Hart et al.*, 457

4. The heir is bound by the warranty of the person, whose inheritance he accepts.....*Walker vs. Fort*, 535

WILL.

1. In a suit contesting the validity of a will by an heir, in which the executor is made defendant, and defends the will, and it is sustained, the rights of legatees who are not parties to the suit, are not affected by it.

Valsain vs. Cloutier, 170

WITNESS.

1. A party cannot be made a witness in his own case, except by filing interrogatories as provided in the Code of Practice.....*Abat vs. Gormley*, 238

2. A witness on his *voire dire* may prove any fact which will show him to be competent.....*Trenchard vs. Elderkin*, 294

